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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/642,588 | 08/19/2003 | Uwe Rausch | 000137.00028 | 2932 |

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BANNER & WITCOFF
1001 G STREET N W
SUITE 1100
WASHINGTON, DC 20001

| EXAMINER | |
|---|---|
| FLANDRO, RYAN M | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3679 | |

DATE MAILED: 09/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/642,588 | RAUSCH ET AL. | |
| | Examiner | Art Unit | |
| | Ryan M Flandro | 3679 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *19 July 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-6* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5* is/are rejected.

7)☒ Claim(s) *6* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *19 August 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

## DETAILED ACTION

### *Specification*

1. In light of Applicant's amendment submitted 7/19/04, the Examiner's objections to the specification are hereby withdrawn.

### *Claim Rejections - 35 USC § 112*

2. In light of Applicant's amendment submitted 7/19/04, the Examiner's rejection of claims 1-6 under 35 USC §112, 2nd paragraph, are hereby withdrawn.

### *Claim Objections*

3. Claim 6 is objected to because of the following informalities: Claim 6 recites the limitation "the sleeve" in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim. The claim should be amended to broadly recite "the distance detector" or to recite that the distance detector is in the form of a sleeve. Alternatively, since claim 6 depends from claim 5, claim 5 could be amended to depend from claim 2 which recites that the distance detector is in the form of a sleeve. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Fell (US 2,940,784).

a. Claim 1. Fell shows and discloses a securing device for a structural component **6,27** to be secured to a panel **5** with a tubular piece **9** inserted into a penetration in the panel **5**, and a screw **18** inserted into the tubular piece **9**, said screw **18** being supported with its head **20** on one end of the tubular piece **9** and holding the structural component **6,27** with its threaded part **19**, said structural component **6,27** contacting the other end of the tubular piece **9**, said tubular piece **9** being screwed an optional distance into the penetration for axial adjustment, characterized in that the tubular piece contains a distance detector **16**, wherein, when the tubular piece **9** is at a distance from the structural component **6,27**, said distance detector 16 is in its starting position projecting out of said tubular piece **9** on its side facing away from the screw head **20** and, when the tubular piece **9** is in contact with the structural component **6,27**, said distance detector 16 is noticeably displaced relative to the tubular piece **9** (see figure 1).

Importantly, the Examiner notes that the claim has been interpreted such that the language following the underlined "wherein" (see above) only requires that the prior art device be *capable* of performing the functions recited therein. Accordingly, Fell is believed to be capable of performing the steps and positions recited.

b. Claim 2. Fell further shows that the distance detector **16** is in the form of a sleeve inserted into the tubular piece **9** (see figures 1 and 3).

c. Claim 3. Fell further shows that the sleeve **16** is slotted **23,24** (see figures 1 and 3).

d. Claim 4. Fell further shows that the distance detector **16** is in the form of a pin axially guided in the tubular piece **9** (see figures 1 and 3). Importantly, the term "pin" is broadly defined as "[a] slender, usually cylindrical piece of wood or metal for holding or fastening parts together, or serving as a support for suspending one thing from another".[1] Element **16** is deemed to fall within this broad definition.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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8. Claims 1, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cable et al (US 4,108,407) (hereinafter Cable) in view of Brehmer et al (US 5,855,460) (hereinafter Brehmer).

a. Cable shows and discloses a securing device for a structural component **12,42** to be secured to a panel **10** with a tubular piece **28** inserted into a penetration in the panel **10**, and a screw **54** inserted into the tubular piece **28**, said screw **54** being supported with its head **56** on one end of the tubular piece **28** and holding the structural component **12,42** with its threaded part **60**, said structural component **12,42** contacting the other end of the tubular piece **28**, said tubular piece **28** being screwed an optional distance into the penetration for axial adjustment (see figure 2).

Cable lacks disclosure that the tubular piece **28** contains a distance detector, wherein, when the tubular piece **28** is at a distance from the structural component **12,42**, said distance detector is in its starting position projecting out of said tubular piece **28** on its side facing away from the screw head **56** and, when the tubular piece **28** is in contact with the structural component **12,42**, said distance detector is noticeably displaced relative to the tubular piece **28**.

Brehmer, however, teaches a distance detector **12** to allow visual inspection of the status of a connection where one side of that connection cannot be observed (see figures 1-4; columns 1-3). Importantly, Cable deals with an adjustment apparatus that requires "blind adjustments" to the assembly (see column 3 line 20), and the inclusion of a distance detector such as that taught by Brehmer would be helpful for the reasons offered

in Brehmer. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a distance detector in Cable for the purpose of allowing visual inspection of the status of a connection where one side of that connection cannot be observed as taught by Brehmer.

b. Claim 4. Brehmer further teaches that the distance detector **12** is in the form of an axially guided pin (see figures 1-4; columns 1-3). Importantly, the term "pin" is broadly defined as "[a] slender, usually cylindrical piece of wood or metal for holding or fastening parts together, or serving as a support for suspending one thing from another".[2] Element **12** is deemed to fall within this broad definition.

c. Claim 5. Brehmer further teaches the distance detector **12** being forced into its starting position by a spring element **11** (see especially figure 2).

9. Claims 1, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pinzl (EP 1215404 A1) in view of Brehmer et al (US 5,855,460) (hereinafter Brehmer).

a. Claim 1. Pinzl (see figures 1-4) shows and discloses each limitation set forth in lines 1-7 of claim 1, but lacks disclosure that the tubular piece **2**contains a distance detector, wherein, when the tubular piece **2** is at a distance from the structural component **13**, said distance detector is in its starting position projecting out of said tubular piece **2** on its side facing away from the screw head **10** and, when the tubular piece **2** is in contact with the

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structural component **13**, said distance detector is noticeably displaced relative to the tubular piece **2**.

Brehmer, however, teaches a distance detector **12** to allow visual inspection of the status of a connection where one side of that connection cannot be observed (see figures 1-4; columns 1-3). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a distance detector in Pinzl for the purpose of allowing visual inspection of the status of a connection where one side of that connection cannot be observed as taught by Brehmer.

b. Claim 4. Claim 4. Brehmer further teaches that the distance detector **12** is in the form of an axially guided pin (see figures 1-4; columns 1-3). Importantly, the term "pin" is broadly defined as "[a] slender, usually cylindrical piece of wood or metal for holding or fastening parts together, or serving as a support for suspending one thing from another".[3] Element **12** is deemed to fall within this broad definition.

c. Claim 5. Brehmer further teaches the distance detector **12** being forced into its starting position by a spring element **11** (see especially figure 2).

### *Allowable Subject Matter*

10. Claim 6 is objected to as set forth above, and further for being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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11. The following is a statement of reasons for the indication of allowable subject matter: the prior art, including Fell, Cable, and Brehmer, either alone or in combination, fails to teach or disclose the spring element consisting of oblique surfaces disposed on the sleeve on its side facing away from the screw head, said oblique surfaces cooperating with sloping faces at the relevant end of the tubular piece.

***Response to Arguments***

12. Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan M Flandro whose telephone number is (703) 305-6952. The examiner can normally be reached on 9:00am- 6:00pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703) 308-2686. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

JOHN R. COTTINGHAM
PRIMARY EXAMINER

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RMF
September 14, 2004